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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

The parties, by and through their respective counsel, stipulate to dismissal of this action in its entirety with prejudice pursuant to Fed.R.Civ.P.41(a)(1). Outside of the terms of the Release and Settlement Agreement (“Agreement”) herein, each party is to bear its own costs and attorneys’ fees. The parties further consent to and request that the Court retain jurisdiction over enforcement of the Agreement. *See Kokonen v. Guardian Life Ins. Co.*, 511 U.S. 375 (1994) (empowering the district courts to retain jurisdiction over enforcement of settlement agreements).

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1 Therefore, IT IS HEREBY STIPULATED by and between parties to this action through
2 their designated counsel that the above-captioned action be and hereby is dismissed with
3 prejudice pursuant to Federal Rules of Civil Procedure section 41(a)(1).

4 This stipulation may be executed in counterparts, all of which together shall constitute
5 one original document.

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7 Dated: August 9, 2007

THOMAS E. FRANKOVICH
A PROFESSIONAL LAW CORPORATION

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13 Dated: July 23, 2007

McNICHOLS RANDICK O'DEA & TOOLIATOS

18 Dated: July 26, 2007

CLAPP MORONEY BELLAGAMBA VUCINICH

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20 By: /s/ Gregory C. Simonian
21 Gregory C. Simonian
22 Attorneys for Defendants ELIAS TSIGARIS; GUS
23 TSIGARIS; PETE TSIGARIS

ORDER

IT IS HEREBY ORDERED that matter is dismissed with prejudice pursuant to Fed.R.Civ.P.41(a)(1). IT IS FURTHER ORDERED that the Court shall retain jurisdiction for the purpose of enforcing the parties' Release and Settlement Agreement should such enforcement be necessary.

Dated: August 10 , 2007

